

1 AN ACT relating to school councils.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 160.345 is amended to read as follows:

4 (1) For the purpose of this section:

5 (a) "Minority" means American Indian; Alaskan native; African-American;
6 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or
7 South American origin; Pacific islander; or other ethnic group
8 underrepresented in the school;

9 (b) "School" means an elementary or secondary educational institution that is
10 under the administrative control of a principal and is not a program or part of
11 another school. The term "school" does not include district-operated schools
12 that are:

- 13 1. Exclusively vocational-technical, special education, or preschool
14 programs;
- 15 2. Instructional programs operated in institutions or schools outside of the
16 district; or
- 17 3. Alternative schools designed to provide services to at-risk populations
18 with unique needs;

19 (c) "Teacher" means any person for whom certification is required as a basis of
20 employment in the public schools of the state, with the exception of principals
21 and assistant principals; and

22 (d) "Parent" means:

- 23 1. A parent, stepparent, or foster parent of a student; or
- 24 2. A person who has legal custody of a student pursuant to a court order
25 and with whom the student resides.

26 (2) Each local board of education shall adopt a policy for implementing school-based
27 decision making in the district which shall include but not be limited to a

1 description of how the district's policies, including those developed pursuant to
2 KRS 160.340, have been amended to allow the professional staff members of a
3 school to be involved in the decision-making process as they work to meet
4 educational goals established in KRS 158.645 and 158.6451. The policy may
5 include a requirement that each school council make an annual report at a public
6 meeting of the board describing **the activities of the council during the school year**
7 **and** the school's progress in meeting the educational goals set forth in KRS
8 **158.645**, 158.6451, and district goals established by the board. The policy shall also
9 address and comply with the following:

10 (a) Except as provided in paragraph (b)~~3. [2.]~~ of this subsection **and subsection**
11 **(7) of this section**, each participating school shall form a school council
12 composed of **three (3)**~~two (2)~~ parents, three (3) teachers, and the principal~~f~~
13 ~~or administrator~~. The membership of the council may be increased, but it may
14 only be increased proportionately **unless an alternative model for**
15 **implementing school-based decision making has been approved as provided**
16 **in subsection (7) of this section**. A parent representative on the council shall
17 not be an employee or a relative of an employee of the school in which that
18 parent serves, nor shall the parent representative be an employee or a relative
19 of an employee in the district administrative offices. A parent representative
20 shall not be a local board member or a board member's spouse. None of the
21 members shall have a conflict of interest pursuant to KRS Chapter 45A,
22 except the salary paid to district employees;

23 (b) 1. The teacher representatives shall be elected for one (1) year terms by a
24 majority of the teachers. A teacher elected to a school council shall not
25 be involuntarily transferred during his or her term of office. The parent
26 representatives shall be elected for one (1) year terms. The parent
27 members shall be elected by the parents of students preregistered to

1 attend the school during the term of office in an election conducted by
 2 the parent and teacher organization of the school or, if none exists, the
 3 largest organization of parents formed for this purpose. A school
 4 council, once elected, may adopt a policy setting different terms of
 5 office for parent and teacher members subsequently elected.

6 **2.** The principal shall be the chair of the school council.

7 **3.**~~[2.]~~ School councils in schools having eight percent (8%) or more minority
 8 students enrolled, as determined by the enrollment on the preceding
 9 October 1, shall have at least one (1) minority member. If the council
 10 formed under paragraph (a) of this subsection does not have a minority
 11 member, the principal, in a timely manner, shall be responsible for
 12 carrying out the following:

13 a. Organizing a special election to elect **one (1)**~~[an]~~ additional
 14 **minority parent** member. The principal shall call for nominations
 15 and shall notify~~[the]~~ parents~~[of the students]~~ of the date, time,
 16 and location of the election to elect a minority parent to the council
 17 by ballot; and

18 b. Allowing the teachers in the building to select one (1) minority
 19 teacher to serve as a teacher member on the council. If there are no
 20 minority teachers who are members of the faculty, **one (1)**~~[an]~~
 21 additional teacher member shall be elected by a majority of all
 22 teachers. Term limitations shall not apply for a minority teacher
 23 member who is the only minority on faculty;

24 (c) 1. The school council shall have the responsibility to set school policy **that**
 25 **shall be** consistent with district board policy **and** which shall provide an
 26 environment to enhance the students' achievement and help the school
 27 meet the goals established by KRS 158.645,~~[and]~~ 158.6451, **and district**

1 **goals established by the board.**

2 **2.** The principal shall be the primary administrator and the instructional
3 leader of the school, and with the assistance of the total school staff shall
4 administer the policies established by the school council and the local
5 board.

6 **3.**~~[2.]~~ If a school council establishes committees, it shall adopt a policy to
7 facilitate the participation of interested persons, including, but not
8 limited to, classified employees and parents. The policy shall include the
9 number of committees, their jurisdiction, composition, and the process
10 for membership selection;

11 (d) The school council and each of its committees shall determine the frequency
12 of and agenda for their meetings. Matters relating to formation of school
13 councils that are not provided for by this section shall be addressed by local
14 board policy;

15 (e) The meetings of the school council shall be open to the public and all
16 interested persons may attend, **including but not limited to members of the**
17 **local board of education who may attend and participate in council**
18 **meetings to the same extent as any other interested person.** However, the
19 exceptions to open meetings provided in KRS 61.810 shall apply;

20 (f) After receiving notification of the funds available for the school from the local
21 board, the school council shall determine, within the parameters of the total
22 available funds, the number of persons to be employed in each job
23 classification at the school. The council may make personnel decisions on
24 vacancies occurring after the school council is formed but shall not have the
25 authority to recommend transfers or dismissals;

26 (g) The school council shall determine which textbooks, instructional materials,
27 and student support services shall be provided in the school. Subject to

1 available resources, the local board shall allocate an appropriation to each
2 school that is adequate to meet the school's needs related to instructional
3 materials and school-based student support services, as determined by the
4 school council. The school council shall consult with the school media
5 librarian on the maintenance of the school library media center, including the
6 purchase of instructional materials, information technology, and equipment;

7 (h) Personnel decisions at the school level shall be as follows:

8 1. From a list of qualified applicants submitted by the ~~local~~
9 superintendent, the principal at the participating school shall select
10 personnel to fill vacancies, after consultation with the school council,
11 consistent with paragraph (i)11. of this subsection. The superintendent
12 shall provide additional applicants to the principal upon request when
13 qualified applicants are available. The superintendent may forward to
14 the school council the names of qualified applicants who have pending
15 certification from the Education Professional Standards Board based on
16 recent completion of preparation requirements, out-of-state preparation,
17 or alternative routes to certification pursuant to KRS 161.028 and
18 161.048. Requests for transfer shall conform to any employer-employee
19 bargained contract which is in effect;

20 2. *If the vacancy to be filled is the position of principal, the*
21 *superintendent shall conduct the hiring process and, after*
22 *consultation with the council, shall select someone to fill the principal*
23 *vacancy;*

24 3. *Notwithstanding subparagraph 2. of this paragraph, if the vacancy to*
25 *be filled is the position of principal in a county school district in a*
26 *county with a consolidated local government adopted under KRS*
27 *Chapter 67C, then:*

1 a. ~~{i. If the vacancy to be filled is the position of principal, }~~The
 2 outgoing principal shall not serve on the council during the
 3 principal selection process. The superintendent or the
 4 superintendent's designee shall serve as the chair of the council for
 5 the purpose of the hiring process and shall have voting rights
 6 during the selection process;~~{-}~~

7 ~~b. {ii. }~~~~{Except as provided in subdivision b. of this subparagraph, }~~The
 8 council shall have access to the applications of all persons certified
 9 for the position. The principal shall be elected on a majority vote
 10 of the membership of the council. The school council shall receive
 11 training in recruitment and interviewing techniques prior to
 12 carrying out the process of selecting a principal. The council shall
 13 select the trainer to deliver the training; **and**

14 **c. Notwithstanding the requirement that a principal be elected by a**
 15 **majority vote of the council, the selection of a principal shall be**
 16 **subject to approval by the superintendent. If the superintendent**
 17 **does not approve the principal selected by the council, then the**
 18 **superintendent may select the principal;**

19 ~~{b. An alternative principal selection process may be used by the~~
 20 ~~school council as follows:~~

21 ~~i. Prior to a meeting called to select a principal, all school~~
 22 ~~council members shall receive informational materials~~
 23 ~~regarding Kentucky open records and open meetings laws~~
 24 ~~and sign a nondisclosure agreement forbidding the sharing of~~
 25 ~~information shared and discussions held in the closed~~
 26 ~~session;~~

27 ~~ii. The superintendent shall convene the school council and~~

- 1 ~~move into closed session as provided in KRS 61.810(1)(f) to~~
2 ~~confidentially recommend a candidate;~~
- 3 ~~iii. The council shall have the option to interview the~~
4 ~~recommended candidate while in closed session; and~~
- 5 ~~iv. After any discussion, at the conclusion of the closed session,~~
6 ~~the council shall decide, in a public meeting by majority vote~~
7 ~~of the membership of the council, whether to accept or reject~~
8 ~~the recommended principal candidate;~~
- 9 ~~e. If the recommended candidate is selected, and the recommended~~
10 ~~candidate accepts the offer, the name of the candidate shall be~~
11 ~~made public during the next meeting in open session;~~
- 12 ~~d. i. If the recommended candidate is not accepted by the school~~
13 ~~council under subdivision b. of this subparagraph, then the~~
14 ~~process set forth in subdivision a. of this subparagraph shall~~
15 ~~apply.~~
- 16 ~~ii. The confidentially recommended candidate's name and the~~
17 ~~discussions of the closed session shall remain confidential~~
18 ~~under KRS 61.810(1)(f), and any documents used or~~
19 ~~generated during the closed meeting shall not be subject to an~~
20 ~~open records request as provided in KRS 61.878(1)(i) and (j).~~
- 21 ~~iii. A recommended candidate who believes a violation of this~~
22 ~~subdivision has occurred may file a written complaint with~~
23 ~~the Kentucky Board of Education.~~
- 24 ~~iv. A school council member who is found to have disclosed~~
25 ~~confidential information regarding the proceeding of the~~
26 ~~closed session shall be subject to removal from the school~~
27 ~~council by the Kentucky Board of Education under~~

1 subsection (9)(e) of this section;]

2 ~~4.~~^{3.} No principal who has been previously removed from a position in the
3 district for cause may be considered for appointment as principal in that
4 district;

5 ~~5.~~^{4.} Personnel decisions made at the school level under the authority of
6 subparagraph~~[subparagraphs]~~ 1. ~~and 2.~~ of this paragraph shall be
7 binding on the superintendent who completes the hiring process;

8 ~~6.~~^{5.} Applicants subsequently employed shall provide evidence that they are
9 certified prior to assuming the duties of a position in accordance with
10 KRS 161.020; and

11 ~~7.~~^{6.} Notwithstanding other provisions of this paragraph, if the applicant is
12 the spouse of the superintendent and the applicant meets the service
13 requirements of KRS 160.380(3)(a), the applicant shall only be
14 employed upon the recommendation of the principal and the approval of
15 a majority vote of the school council; ~~and]~~

16 ~~[7. Beginning June 27, 2019, notwithstanding the requirement that a~~
17 ~~principal be elected on a majority vote of the council in subparagraph 2.~~
18 ~~of this paragraph, if the school council is in a county school district in a~~
19 ~~county with a consolidated local government adopted under KRS~~
20 ~~Chapter 67C, then the selection of a principal shall be subject to~~
21 ~~approval by the superintendent. If the superintendent does not approve~~
22 ~~the principal selected by the council, then the superintendent may select~~
23 ~~the principal;]~~

24 (i) The school council shall adopt a policy to be implemented by the principal in
25 the following additional areas:

26 1. Determination of curriculum, including needs assessment, curriculum
27 development and responsibilities under KRS 158.6453(19);

- 1 2. Assignment of all instructional and noninstructional staff time;
- 2 3. Assignment of students to classes and programs within the school;
- 3 4. Determination of the schedule of the school day and week, subject to the
- 4 beginning and ending times of the school day and school calendar year
- 5 as established by the local board;
- 6 5. Determination of use of school space during the school day related to
- 7 improving classroom teaching and learning;
- 8 6. Planning and resolution of issues regarding instructional practices;
- 9 7. Selection and implementation of discipline and classroom management
- 10 techniques as a part of a comprehensive school safety plan, including
- 11 responsibilities of the student, parent, teacher, counselor, and principal;
- 12 8. Selection of extracurricular programs and determination of policies
- 13 relating to student participation based on academic qualifications and
- 14 attendance requirements, program evaluation, and supervision;
- 15 9. Adoption of an emergency plan as required in KRS 158.162;
- 16 10. Procedures, consistent with local school board policy, for determining
- 17 alignment with state standards, technology utilization, and program
- 18 appraisal; and
- 19 11. Procedures to assist the council with consultation in the selection of
- 20 personnel by the principal, including but not limited to meetings,
- 21 timelines, interviews, review of written applications, and review of
- 22 references. Procedures shall address situations in which members of the
- 23 council are not available for consultation; and
- 24 (j) 1. Each school council shall annually review data as shown on state and
- 25 local student assessments required under KRS 158.6453. The data shall
- 26 include but not be limited to information on performance levels of all
- 27 students tested, and information on the performance of students

1 disaggregated by race, gender, disability, and participation in the federal
2 free and reduced price lunch program.

3 2. After completing the review of data, each school council, with the
4 involvement of parents, faculty, and staff, shall develop and adopt a plan
5 to ensure that each student makes progress toward meeting the goals set
6 forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and
7 submit the plan to the superintendent and local board of education for
8 review as described in KRS 160.340.

9 3. The Kentucky Department of Education shall provide each school
10 council the data needed to complete the review required by this
11 paragraph no later than October 1 of each year.

12 4. If a school does not have a council, the review shall be completed by the
13 principal with the involvement of parents, faculty, and staff.

14 (3) The policies adopted by the local board to implement school-based decision making
15 shall also address the following:

16 (a) School budget and administration, including: discretionary funds; activity and
17 other school funds; funds for maintenance, supplies, and equipment; and
18 procedures for authorizing reimbursement for training and other expenses;

19 (b) Assessment of individual student progress, including testing and reporting of
20 student progress to students, parents, the school district, the community, and
21 the state;

22 (c) School improvement plans, including the form and function of strategic
23 planning and its relationship to district planning, as well as the school safety
24 plan and requests for funding from the Center for School Safety under KRS
25 158.446;

26 (d) Professional development plans developed pursuant to KRS 156.095;

27 (e) Parent, citizen, and community participation including the relationship of the

- 1 council with other groups;
- 2 (f) Cooperation and collaboration within the district, with other districts, and with
3 other public and private agencies;
- 4 (g) Requirements for waiver of district policies;
- 5 (h) Requirements for record keeping by the school council; and
- 6 (i) A process for appealing a decision made by a school council.
- 7 (4) In addition to the authority granted to the school council in this section, the local
8 board may grant to the school council any other authority permitted by law. The
9 board shall make available liability insurance coverage for the protection of all
10 members of the school council from liability arising in the course of pursuing their
11 duties as members of the council.
- 12 (5) All schools shall implement school-based decision making in accordance with this
13 section and with the policy adopted by the local board pursuant to this section.
14 Upon favorable vote of a majority of the faculty at the school and a majority of at
15 least twenty-five (25) voting parents of students enrolled in the school, a school
16 meeting its goal as determined by the Department of Education pursuant to KRS
17 158.6455 may apply to the Kentucky Board of Education for exemption from the
18 requirement to implement school-based decision making, and the state board shall
19 grant the exemption. The voting by the parents on the matter of exemption from
20 implementing school-based decision making shall be in an election conducted by
21 the parent and teacher organization of the school or, if none exists, the largest
22 organization of parents formed for this purpose. Notwithstanding the provisions of
23 this section, a local school district shall not be required to implement school-based
24 decision making if the local school district contains only one (1) school.
- 25 (6) The Department of Education shall provide professional development activities to
26 assist schools in implementing school-based decision making. ***First-time*** school
27 council members ~~[elected for the first time]~~ shall complete a minimum of six (6)

1 clock hours of training in the process of school-based decision making, no later than
2 thirty (30) days after the beginning of the service year for which they are elected to
3 serve. School council members who have served on a school council at least one (1)
4 year shall complete a minimum of three (3) clock hours of training in the process of
5 school-based decision making no later than one hundred twenty (120) days after the
6 beginning of the service year for which they are elected to serve. Experienced
7 members may participate in the training for new members to fulfill their training
8 requirement. School council training required under this subsection shall be
9 conducted by trainers endorsed by the Department of Education. By November 1 of
10 each year, the principal through the ~~local~~ superintendent shall forward to the
11 Department of Education the names and addresses of each council member and
12 verify that the required training has been completed. School council members
13 elected to fill a vacancy shall complete the applicable training within thirty (30)
14 days of their election.

15 (7) A school that chooses to have school-based decision making but would like to be
16 exempt from the administrative structure set forth by this section may develop ***an***
17 ***alternative*** ~~an~~ model for implementing school-based decision making, including but
18 not limited to a description of the membership, organization, duties, and
19 responsibilities of a school council. The school shall submit the model through the
20 local board of education to the commissioner of education and the Kentucky Board
21 of Education, which shall have final authority for approval. The application for
22 approval of the model shall show evidence that it has been developed by
23 representatives of the parents, students, certified personnel, and the administrators
24 of the school and that two-thirds (2/3) of the faculty have agreed to the model.

25 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
26 education, shall adopt by administrative regulation a formula by which school
27 district funds shall be allocated to each school council. Included in the school

1 council formula shall be an allocation for professional development that is at least
2 sixty-five percent (65%) of the district's per pupil state allocation for professional
3 development for each student in average daily attendance in the school. The school
4 council shall plan professional development in compliance with requirements
5 specified in KRS 156.095, except as provided in KRS 158.649. School councils of
6 small schools shall be encouraged to work with other school councils to maximize
7 professional development opportunities.

8 (9) (a) No board member, superintendent of schools, district employee, or member of
9 a school council shall intentionally engage in a pattern of practice which is
10 detrimental to the successful implementation of or circumvents the intent of
11 school-based decision making to allow the professional staff members of a
12 school and parents to be involved in the decision making process in working
13 toward meeting the educational goals established in KRS 158.645, ~~and~~
14 158.6451, **and district goals established by the board**, or to make decisions in
15 areas of policy assigned to a school council pursuant to paragraph (i) of
16 subsection (2) of this section.

17 (b) An affected party who believes a violation of this subsection has occurred may
18 file a written complaint with the Office of Education Accountability. The
19 office **may** ~~shall~~ investigate the complaint and ~~resolve the conflict~~, if
20 **appropriate, refer** ~~possible, or forward~~ the matter to the Kentucky Board of
21 Education **for further review**.

22 (c) The Kentucky Board of Education shall conduct a hearing in accordance with
23 KRS Chapter 13B for complaints referred by the Office of Education
24 Accountability.

25 (d) If the state board determines a violation has occurred, the party shall be
26 subject to reprimand. A second violation of this subsection may be grounds
27 for removing a superintendent, a member of a school council, or school board

1 member from office or grounds for dismissal of an employee for misconduct
2 in office or willful neglect of duty.

3 ~~[(e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the
4 state board determines a violation of the confidentiality requirements set forth
5 in subsection (2)(h)2. of this section by a school council member has
6 occurred, the state board shall remove the member from the school council,
7 and the member shall be permanently prohibited from serving on any school
8 council in the district.]~~

9 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or
10 maintain a school-based decision making council and the powers, duties, and
11 authority granted to a school council may be transferred to the
12 superintendent~~[rescinded or the school council's role may be advisory if the
13 commissioner of education or the Kentucky Board of Education takes action]~~ under
14 KRS 160.346.

15 (11) Each school council of a school containing grades K-5 or any combination thereof,
16 or if there is no school council, the principal, shall develop and implement a
17 wellness policy that includes moderate to vigorous physical activity each day and
18 encourages healthy choices among students. The policy may permit physical activity
19 to be considered part of the instructional day, not to exceed thirty (30) minutes per
20 day, or one hundred and fifty (150) minutes per week. Each school council, or if
21 there is no school council, the principal, shall adopt an assessment tool to determine
22 each child's level of physical activity on an annual basis. The council or principal
23 may utilize an existing assessment program. The Kentucky Department of
24 Education shall make available a list of available resources to carry out the
25 provisions of this subsection. The department shall report to the Legislative
26 Research Commission no later than November 1 of each year on how the schools
27 are providing physical activity under this subsection and on the types of physical

1 activity being provided. The policy developed by the school council or principal
2 shall comply with provisions required by federal law, state law, or local board
3 policy.

4 ~~[(12) Discretionary authority exercised under subsection (2)(h)2.b. of this section shall~~
5 ~~not violate provisions of any employer-employee bargained contract existing~~
6 ~~between the district and its employees.]~~